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In re Application of:	:	DECISION
NARESSI, Alexandre et al.	:	
Application No.: 10/598,381	:	ON
PCT No.: PCT/EP2004/005400	:	PETITION
Int. Filing Date: 25 February 2004	:	UNDER
Atty Docket No.: 33836.00.0098	:	
For: RFID ENABLED MEDIA SYSTEM AND METHOD	:	37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a) by Joint Inventor on Behalf of Non-Signing Inventor" filed 23 September 2008. The Deposit Account No. 22-0259 will be charged the required \$200 petition fee.

BACKGROUND

On 25 February 2004, applicants filed international application PCT/EP2004/005400. The international application did not claim priority, and it designated the United States. On 01 September 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., 25 August 2006.

On 25 August 2006, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, *inter alia*, payment of the basic national fee.

On 24 March 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 23 September 2008, applicant filed a response to the Notification of Missing Requirements that included payment extension of time for 4 months, payment of the required surcharge, a partially executed declaration, and the petition under 37 CFR 1.47(a) considered

herein. The petition seeks acceptance of the application without the signature of inventor Patrice FAUVET, whom applicant asserts has refused to execute the application.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration executed by the other inventor on behalf of himself and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicant here has authorized a charge to Deposit Account No. 22-0259 for the required petition fee, and the petition states the last known address of the non-signing inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Applicant has filed a declaration that contains an unsigned signature block for the non-signing inventor and is executed by the other inventor of record. This declaration can be accepted as having been executed by the signing inventor on his own behalf and on behalf of the non-signing inventor. Item (3) is therefore satisfied.

Regarding item (4), MPEP section 409.03(d) states that, before it can be concluded that an inventor has refused to execute the application papers, "[a] copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also states the following:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Here, applicant has provided supporting documents demonstrating that a request for signature, accompanied by a copy of the complete application, has been forwarded to the non-signing inventor at his last known address, that the materials were received by the inventor, and that the inventor has failed to provide the requested signature. These materials provide an acceptable showing that the non-signing inventor has refused to execute the declaration. Item (4) is therefore satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

The application is accepted without the signature of non-signing inventor Patrice FAUVET.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 23 September 2008.



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In re Application of NARESSI, Alexandre et al.
U.S. Application No.: 10/598,381
PCT No.: PCT/EP2004/005400
Int. Filing Date: 25 February 2004
For: RFID ENABLED MEDIA SYSTEM AND METHOD

Dear Patrice Fauvet

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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